



**REMARKS**

Applicant respectfully requests further examination and reconsideration in view of the arguments set forth fully below. Claims 1, 3-6, 8-14, 17 and 18 were previously pending in the present application. Within the Office Action, Claims 1, 3-6, 8-14, 17 and 18 have been rejected. Claims 1, 3-6, 8-14, 17 and 18 are still pending in this application.

**Rejections Under 35 U.S.C. § 102(b):**

Within the Office Action, Claims 1, 3-6, 8-14, 17 and 18 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,921,890 to Miley (hereafter "Miley"). Applicant respectfully traverses the rejection of Claims 1, 3-6, 8-14, 17 and 18 under 35 U.S.C. § 102(b) as being anticipated by Miley.

Miley teaches a programmable pacing device that emits a plurality of different audible signals and that can clip to a pair of swimming goggles. [Miley; Abstract] However, Miley fails to teach or suggest a timing device that includes a detachable clip that detachably couples to both a pair of goggles and a timing unit, such as recited in each of the independent Claims 1, 5, 11 and 18.

The present invention is a timing/pacing device that is configured to be used as a coaching tool, as well as a personal training tool, preferably for swimmers. The timing/pacing device of the present invention includes a clip unit for attaching to a goggle strap and a timing/pacing unit that detachably couples to the clip unit while the clip unit is coupled to the goggle strap. This structure provides a number of advantages over the device of Miley. Specifically, the timing unit can be quickly removed from the clip unit without removing the clip unit from the goggle strap and can be replaced by another timing unit. Accordingly, a coach can provide to a team of swimmers a first set of timing/pacing units that are programmed with a first set of pacing frequencies or rhythms, wherein each swimmer on the team has clip units, such as described above, attached to his or her goggles. The swimmers then actuate the first set of timing/pacing units and swim through a first training cycle corresponding to the first set of pacing frequencies or rhythms. At the end of the first training cycle, the coach can provide the team of swimmers with a second set of timing/pacing units programmed with a second set of pacing frequencies or rhythms to begin a second cycle of training.

As described above, to replace the first set of timing/pacing units, the team of swimmers simply remove the first set of timing/pacing units from their respective clip units and snap the second set of timing/pacing units into the clip unit without having to remove their goggles. In this way the coach can provide customized team training. A timing/pacing device with these features is neither taught nor suggested by Miley.

The independent Claim 1 recites a portable electronic device, wherein the portable

electronic device is configured to provide an audible signal at a repeated frequency selectable by a user wherein the repeated frequency corresponds to an interval between two tenths of a second and ten minutes and wherein the electronic device comprises a timing unit contained within a waterproof housing, wherein the timing unit comprises a plurality of buttons configured to allow the user to select a single frequency as the repeated frequency, a display configured to display a numerical representation of the repeated frequency selected by the user, a power source and a detachable clip member configured to detachably couple to the timing unit and to goggles. As stated above, Miley neither teaches nor suggests a timing/pacing device with a clip for detachably coupling to goggles and detachably coupling to the timing unit of the device, such as currently recited in the independent Claim 1. For at least this reason, the independent Claim 1 is allowable over the teachings of Miley.

Claims 3 and 4 are both dependent on the independent Claim 1. As described above, the independent Claim 1 is allowable over the teachings of Miley. Accordingly, Claims 3 and 4 are also both allowable as being dependent on an allowable base claim.

The independent Claim 5 recites an electronic pacing device comprising a housing, wherein the housing comprises a programmable timing circuit configured to allow a user to select a single pacing frequency through a plurality of buttons, means for providing an audible signal corresponding to the pacing frequency and a clip member configured to detachably couple to eyewear. As stated above, Miley neither teaches nor suggests a timing/pacing device with a clip for detachably coupling to eyewear and detachably coupling to the timing unit of the device, such as currently recited in the independent Claim 5. For at least this reason, the independent Claim 5 is allowable over the teachings of Miley.

Claims 6 and 8-10 are all dependent on the independent Claim 5. As described above, the independent Claim 5 is allowable over the teachings of Miley. Accordingly, Claims 6 and 8-10 are also all allowable as being dependent on an allowable base claim.

The independent Claim 11 recites an electronic tempo device comprising a detachable clip member for detachably coupling to goggles and detachably coupling to a housing, wherein the housing comprises a programmable timer configured to be programmed with a single set frequency interval, means for providing a repeated audible cue at the set frequency interval, a display configured to display a numerical representation of the set frequency interval, a power source configured to provide power to the means for providing a repeated audible cue and the programmable timer, and means for inputting controls to the device, wherein the means for inputting controls to the device is configured to turn the device on and off and program the set frequency interval. As stated above, Miley neither teaches nor suggests an timing/pacing device with a clip for detachably coupling to goggles and detachably coupling to a housing of a timing unit, such as currently recited in the independent Claim 11. For at least this reason, the

independent Claim 11 is allowable over the teaching of Miley.

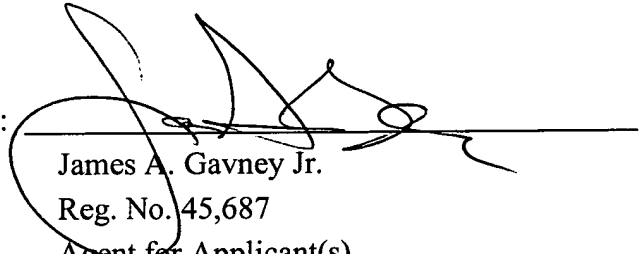
Claims 12-14 and 17 are all dependent on the independent Claim 11. As described above, the independent Claim 11 is allowable over the teachings of Miley. Accordingly, the Claims 12-14 and 17 are also all allowable as being dependent on an allowable base claim.

5 The independent Claim 18 recites a timing device comprising a clip member for detachably clipping to a goggle strap and detachably coupling to a waterproof housing unit for housing a timing unit contained within the waterproof housing, wherein the timing unit comprises an input means to select an input frequency corresponding to an interval between two  
10 tenths of a second and ten minutes, an audio means to produce a sound corresponding to the frequency and a power source. As described above, Miley neither teaches nor suggests timing device with a clip member for detachably clipping to a goggle strap and detachably coupling to a waterproof housing unit of the timing device. For at least this reason, the independent Claim 18 is allowable over the teaching of Miley.

15 The Applicant respectfully submits that Claims 1, 3-6, 8-14, 17 and 18 are now in condition for allowance. Should the Examiner have any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 to discuss them so that any outstanding issues can be expeditiously resolved.

20 Respectfully submitted,  
HAVERSTOCK & OWENS LLP

Dated: March 3, 2006

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CERTIFICATE OF MAILING (37 CFR § 1.8(a))

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